

REMARKS

The applicants appreciate the examiner's review of the prior art and request reconsideration of the pending claims in view of the following remarks. Applicants previously added claims 93-110 and cancelled claims 1-36, 38, 39, 48, 50-62, 64, and 74-92. As discussed in greater detail below, to expedite prosecution, Applicants have amended claims 37, 63, 93, and 102. Accordingly, claims 37, 40-47, 49, 63, 65-73, and 93-110 are currently pending in the application.

Examiner Interview

Applicants would also like to thank the examiner for the telephone interview of December 10, 2008. During the interview, the examiner and Applicants' attorney discussed the Brony reference in view of the pending claims. In particular, the examiner and Applicants' attorney discussed the limitation "the gland member occluding the opening" in view of figures 7 and 8 of Brony. Applicants' attorney explained that Brony's holes 82 are not occluded by the gland member because the annular volume created by opening 74 allows fluid and/or particulates to flow in and out of the hollow body 71 through the holes. The examiner disagreed and suggested that the holes are occluded because the valve is closed.

The examiner suggested amending the claims to include a limitation regarding the contact between the gland member and the distal portion of the plug member. The examiner indicated that such amendments would make the claims allowable over the cited art. No agreement was reached during the interview.

Claim Amendments

To expedite prosecution, Applicants have amended independent claims 37, 63, 93, and 102 to include the limitation suggested by the examiner during the interview of December 10, 2008. In particular, the independent claims now include the limitation "the gland member

normally occluding the opening and contacting the distal end of the plug member” (the underlined phrase being the amendment).

Applicants would like to note that the amendments were made solely for the purpose of expediting prosecution of the current application. Applicants do not feel that such amendments are required to overcome the prior art of record. Accordingly, Applicants would like to preserve their rights to pursue the prior claimed subject matter in a continuation application.

35 U.S.C. 102(b) Rejections

The office action rejected claims 37, 40-43, 45-47, 49, 63, 65-68, 70-73, 93-96, 98-105, and 107-110 under 35 USC 102(e) as being anticipated by US Patent Number 5,620,434 (Brony, hereinafter “Brony”).

As mentioned above, Applicants have amended independent claims 37, 63, 93, and 102 to include the limitation suggested by the examiner during the interview of December 10, 2008. Accordingly, Applicants believe that claims 37, 63, 93, and 102 are allowable over Brony. Moreover, claims 40-43, 45-47, 49, 65-68, 70-73, 94-96, 98-101, 103-105, and 107-110, which depend from claims 37, 63, 93, and 102, are allowable over Brony for at least the same reasons.

35 U.S.C. 103(a) Rejections

The office action rejected claims 44, 69, 97, and 106 under 35 USC 103(a) as being unpatentable over Brony in view of US Patent Number 6,079,432 (Paradis, hereinafter “Paradis”).

As dependent claims of claims 37, 63, 93, and 102, claims 44, 69, 97, and 106 also define a medical valve having a resilient gland member that normally occludes an opening within a moveable plug member and contacts the distal end of the plug member. Accordingly, claims 44, 69, 97, and 106 are allowable over Brony for at least the reasons discussed above with respect to claim 37.

Additionally, Paradis fails to teach the deficiencies of Brony. In particular, nowhere does Paradis teach or suggest a resilient gland member that normally occludes an opening within a moveable plug member and contacts the distal end of the plug member. Accordingly, claims 44,

69, 97, and 106 are also allowable over Paradis. Therefore, since neither Brony nor Paradis teach or suggest, alone or in combination, all limitations of claims 4, 69, 97, and 106, the combination cannot make the claims obvious.

All pending claims therefore are allowable over the cited art. The application therefore is in condition for allowance and such action is earnestly solicited. Applicants do not believe that any extension of time is required. However, if an extension of time is required, Applicants hereby request that the associated fee and any additional fees required by this paper or credit any overpayment to Deposit Account No. 19-4972. Applicants also request that the examiner contact applicant's attorney, Jonathan Lovely, if it will assist in processing this application through issuance.

Respectfully submitted,

/Jonathan C. Lovely, Reg. #60,821/
Jonathan C. Lovely
Reg. No. 60,821
Tel: 617-443-9292

01600/00163 986780.1